

## ORDER FOR ADJOURNMENT

Mr. BROWN. If there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand adjourned under the previous order, following the remarks of the Senator from Alabama.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama.

## IMMIGRATION REFORM

Mr. SESSIONS. Mr. President, I hope we are not moving forward with a plan that would introduce the immigration bill we considered in the Senate last year. That is what I am hearing. I believe there are talks ongoing today—bipartisan talks—talks in which the White House and other members of the President's Cabinet are participating where they are at least talking about a framework of a comprehensive immigration reform of which we could be proud.

The bill that was introduced last year was fatally flawed. It was not the kind of legislation we should have passed. If it had been passed, it would never have worked and would have been an embarrassment to the Senate. I cannot say how strongly I believe that to be true. There was no way we could repair that bill by amendment. I talked about that last year. It was important that we start over with a new piece of legislation. We worked on it, and a majority of the Republicans in the Senate, last year, voted against the bill. The House refused to even consider it. They would not take it up. Four Democrats voted against the bill last year.

So the only way to enact comprehensive immigration legislation is to start over and write a new bill on which both the Democrats and a majority of Republicans can agree. Until this week, I had hopes that was ongoing. I have not been in the detailed negotiations, but I have been briefed on some of the framework for reform that, to me, is very consistent with what I pleaded with my colleagues last year to do.

Now, over the past several weeks, up to 10 Members of the Senate have been actively meeting to write a new bill. They started with the principles laid out by the White House in a 23-page Powerpoint that promptly got leaked. Maybe they wanted it leaked. I don't know. Those Powerpoints just have one or two lines. They do not have fine print. But they do set fourth agenda items and principles.

The principles laid out in that Powerpoint are much closer to a bill I could support and I think the American people would be willing to support.

This is what they included in that presentation. Although I am not involved in the details, I think it is what Members are discussing at this moment—have been discussing, at least. Apparently, people periodically walk

away from the discussions, and they say this isn't good enough or I don't like this, but that is negotiation, hopefully, and we can work forward with it. Let me just tell you some of the things that are in this bill that were not in last year's legislation.

There is an enforcement trigger. Before any new immigration programs or green card adjustments could begin, the principles in the Powerpoint would require an "enforcement trigger" to be met. Senator ISAKSON from Georgia offered that. He basically said: We are not going to trust you this time—the American people are not. We want to see that you follow through on the things that are critical to a lawful immigration system before we pass the green card adjustments and deal with those other issues.

It also requires that the Border Patrol be increased to the numbers agreed upon—with a total of 18,300. It is one thing to say we are going to authorize 18,000 Border Patrol agents, which I think is a minimum, really not sufficient to cover the border—but it is an increase of significance. We are not going to go forward with the bill until you actually hire them and put them on the payroll and train them and they are out there.

Also, 200 miles of vehicle barriers and 370 miles of fencing must be constructed. We talked about that, and I offered the amendment. It passed several times and eventually was passed last year.

The catch and release at the border must be ended. This idea of catching people at the border who have violated our immigration laws and have come into the country illegally—they are being taken inland, taken before some administrative officer or judge and released on bail and asked to come back. Well, 95 percent are not showing up. That is what they wanted to do: to be brought into America. They were released on bail. Nobody ever went out and found them or looked for them. It is just a broken system. It is not working. Those are things that are part of the trigger as to what has to be fixed before we go forward with the legislation. That would be in the principles.

The future flow of temporary workers is critical. As to the future flow temporary worker program, the so-called Y visas—the principles outline a new program for truly temporary workers. The White House plan would admit new workers for 2 years and could be renewed three times, for a total of 6 years.

Between each 2-year period, workers would be required to return to their home countries for 6 months. Workers could not bring their spouses or their children but could return home to visit them if they choose. They would be able to go back and forth as often as they liked. There is no cap specified in the White House plan, but the plan envisions an annual cap set by the Secretary of Homeland Security in consultation with the Secretaries of Labor

and Commerce, depending on American needs.

Workers would be eligible to apply for green cards through regular channels. Regular channels are adjusted to a more merit-based system. It would include a merit-based system. I think this is a great improvement over last year's legislation. But I have to tell you, I am concerned about people coming to stay more than 1 year because I think it becomes more and more difficult for them to leave. They are less likely to leave. Many of them are more likely to violate the law and just embed and stay. I think a 1-year plan would be far better. But those are things that are being talked about which would be substantially better than last year's legislation.

There is a seasonal worker program that makes much more sense than what was in last year's bill. The principles also contain a "new and improved" seasonal worker program that would combine the current agricultural—the H-2A plan—and unskilled—H-2B—seasonal worker programs. We combine those two programs, as they should be combined, because they are each for temporary workers.

Workers could remain in this country for 9 months at a time, under this proposal, and would be required to return to their home countries for 3 months in between. This is a temporary worker program that appears to be actually temporary, unlike last year's legislation, in which the temporary guest worker program in last year's immigration bill said an individual could come to this country temporarily, but they could bring their wife and children. They could come for 3 years. That 3 years could be extended again and again and again. And they could apply for citizenship within the first year they got here. That was the temporary worker program last year. How broken was that? It would never have worked. People bring their children, they get settled in the country, a decade goes by. Who is going to be able to ask them to leave? What kind of painful scene would that be? Teachers, preachers, family members, neighbors—they have gotten to know people. They have a whole new mindset, an incorrect mindset.

The bill, last year, said "temporary guest worker program," and this is what it was. It was really a permanent entry into the country for very extended periods of time where it could be difficult for people to leave.

Under this plan, the outline that is being discussed, they could actually work—and it is what I suggested last year—and spouses and children would remain in the worker's home country.

Renewals under the seasonal program would be unlimited, which may be problematic. We would need to discuss that some.

But these workers would also be eligible to apply for green cards under regular channels, if they are willing to compete against others on a merit-

based basis to see whether or not they could come.

Then the principles focus on a more merit-based entry policy into the United States. The principles I hear being discussed would eliminate the Diversity Visa Lottery and some chain migration categories, such as brothers and sisters and adult siblings of U.S. citizens.

Green cards that have been given out for those individuals would be transferred over to a point system which selects legal permanent resident applicants based on merit. So I am concerned that the White House plan also appears to increase the total number of green cards available each year. Page 21 of the Powerpoint indicates that 1.4 million green cards would be available each year. We are at about 1 million now. That would be a 40-percent increase. I want to look at that carefully. But I like the idea of the entry being based on a more meritorious program.

They have a plan to clear the current backlog of green card applications, which also has dangers in that it could substantially increase the number of people who would come. I am not sure comprehensive immigration reform is designed to increase—at least the American people have an idea that it is designed to increase dramatically the number of people who come legally today. I don't think that is what most people have in mind when they think about immigration reform.

What about the population that is here today illegally? This plan that is being discussed would have given legal status to illegal aliens currently in the country through a new "Z" visa, which would be renewable indefinitely. Those holding Z visas will be eligible to apply for green cards through regular channels after they go back, "touchback," across the border. But regular channels are adjusted to a more merit-based system. So they would have to compete with people who have other qualities and merits that may make them less likely to be admitted.

If these principles are the ones that form the framework for a newly drafted, bipartisan bill, then I think it is possible that we could successfully enact immigration reform this year.

Now, I cannot tell you that I am going to be able to vote for this plan in the end because I intend to read the fine print. That is what I learned last year. The rubric, the caption in the bill last year was "temporary guest worker program" in big print right in the middle of the bill. Then, when you read it, what did you find? We found that the individuals came here for 3 years, with their family, and they could reup, reup for 3 years, time and time again, and, frankly were never going to leave this country.

It was not a temporary guest worker program at all. It was a scheme to confuse the American people about the real meaning of it. In fact, I think it confused Senators. I think they thought it was a temporary worker

program, and it absolutely was not. It would never have worked. But the people who wrote it—I think that was their plan. They never wanted it to work to begin with. That is the true fact about it. So the fine print could contain things that will not work.

So I think the framework, the outline, if we are honest and serious, could be the basis for a historic reform of immigration that could actually work, that we could actually be proud of. It is possible. But there are forces, special interests that are driving this process, and they do not respect the views of the American people. They want to ram it through on their terms, and they want to have it say what they want it to say.

This is what the news reports are saying, and I am getting very concerned about it. It is now being reported that instead of being patient and waiting for this new bipartisan bill to be completed and actually written up so people can read it, the majority leader, Senator REID, is forcing the immigration bill to this floor Wednesday, May 9, the day after tomorrow. According to Roll Call, this morning:

According to an aide to Reid, the Majority leader is expected to bring up the . . . package passed by the Judiciary Committee last year . . . if negotiations produce a deal he will allow lawmakers to propose it as a substitute amendment. . . .

Now, this plan is not a wise approach. Why do we want to bring up a piece of legislation that is fatally flawed, that should never, ever become law? I see no reason. I have one idea, though, or one suspicion I am going to discuss.

It puts undue pressure, an artificial timeline, on those who are trying to work through this extremely complex and important piece of legislation we do not need. We don't have to set that kind of deadline. What we need them to do is to spend the necessary time to produce a strong, thoughtful, bipartisan product that will actually work. That is what we need to do. Then we can vote for it with pride instead of trying to sneak it through this Senate without anybody knowing what is actually in it. As I said last week when I heard about this plan, the Democratic leadership acts as if this is another piece of everyday legislation, but it is not. The immigration bill is one of the most important to come through the Senate in the decade I have been here. I believe that. I think the American people understand that. So this option is not new.

In April, we heard news reports that the Democratic majority would be abandoning efforts to write a new bill and would be starting with the fatally flawed bill produced by the Judiciary Committee last Congress.

"Immigration Daily," an online immigration law publication, reported:

There is good reason to believe that the CIR—that is the Comprehensive Immigration Reform—

Language will finally be introduced on the Senate floor within 2 weeks or less. What will the CIR language look like? CIR begins

with S. 2611, the McCain-Kennedy bill which cleared the Senate last year.

The New York Times reported a similar story:

Senator Edward M. Kennedy has abandoned efforts to produce a new immigration bill and is proposing using legislation produced last March by the Senate Judiciary Committee as the starting point for negotiations this year. Mr. Kennedy dismissed the notion that his efforts to produce a new immigration bill had failed. He said he had decided that the committee report was the best starting point.

We have had extensive hearings on the essential aspects of this bill,

Mr. KENNEDY said.

We are effectively ready to mark up and for going to the floor.

I am very disappointed—beyond disappointed—to hear those news reports. I have been pleased, I guess, today that so far these plans haven't come to fruition, that the majority has begun to engage or has continued to engage Republican Senators and the White House in a real effort to write a good bill. I hope that is what the majority will continue to do.

I hope the majority will abandon last year's fatally flawed bill, not start with it. It cannot be amended and an effective bill created. It means this cannot be the starting point to come to the floor with a new bill this Congress. I implore our leadership to continue trying to write a bill that a majority of Republicans could support, that is possible if we follow through on the real principles people are talking about and saying they can agree to.

It is not a question of the principles we are dealing with. The question is: Will we write the bill in such a way that the principles are carried out? That is the key thing. It was not done last year. In 1986, it was to be the amnesty to end all amnesties. They had 3 million people—I think they thought there were 2 million people—here illegally. They created amnesty for them and they promised we would pass a new law and that this new law would be such that we wouldn't have to do amnesty again. That was in 1986, 20 years ago. We had, it turned out, 3 million people who claimed the amnesty.

What has happened since? Now we have 12 million people here illegally—maybe 20 million—who knows for sure. So why wouldn't we learn from that? Why wouldn't we understand this is not a political football to be kicked down the field? This is important legislation that ought to be passed and written correctly, so 5 years from now, we can go to our constituents and say: We did something good. It is working as we promised you it would work. Why not?

Well, I will tell my colleagues what appears to me to be happening. By bringing up the old bill, last year's bill, which many people in this Senate voted for and probably still believe is good legislation, though it certainly is not, they can start it—they can start it and go forward with this bill that perhaps they never intend to be offered as the final legislation. You burn the time

on the motion to proceed to the bill for the bill to be discussed, and they can go past that and move to proceed to the bill, and then file for cloture on the bill, and then offer a substitute, 700, 800 pages. That is how many pages it was last year—over 600. If they write this one well this year, it should be more than that. They drop a 700, 800-page bill and substitute the old bill, and there is no time to debate it, and they slide it right through, railroad time. I am telling my colleagues, that appears to me to be what it is about. That would be an abrogation of our responsibility.

The American people care about this legislation. The American people are not unengaged. They know something compassionate is going to have to be done about the 12 million people, but I think most people agree with me that someone who came here illegally should not be given every single benefit we give to somebody who comes here legally. We need to set a principle that we are not going to reward illegal behavior in the future. So you work something out on that, and you work something out on these other complex issues, and we set up a policy of immigration for the future that reflects some of the principles Canada has: its point system, its merit-based system. That was never discussed last year. Not one hint of it is in the bill Senator REID is apparently intending to bring up on Wednesday.

How can we possibly talk about comprehensive immigration reform and never consider a merit-based immigration system? Isn't America based on merit? Don't we know far more people want to come here than can be accepted? Don't we know Australia does that, New Zealand does that, the United Kingdom is looking at that—all developed and highly sophisticated nations committed to humanity and civil rights, world leaders in that regard. Are their proposals somehow immoral and unfit? Of course not. Those ideas were not even discussed in last year's bill. So they say we might have something such as that in this legislation. Well, let's see it. Let's see what the words say. What is it going to say? Is it going to be like last year when it said "temporary guest worker," and that was nothing but a sham when you read the fine print under it? Is that what we are going to get this year, a bill they ram through at the last minute, burning the time for debate so we have only the most minimal time to debate? Is that the plan? I hope the American people are keeping their eye on this one. They deserve more. The American people are concerned about immigration. It is an important issue. It is a very important issue to us.

We had a group from Ireland testify at the Judiciary Committee last year and they told us only 2,000 people got into our country from Ireland last year. We had over 1 million come in legally. What is this? How do we create a system that does not give people throughout the world an equal chance,

an opportunity to apply to come to America? We need to work on that. We can do it. There is a framework here that, if fleshed out with good legislation, good language, enforceability, we can be proud of.

I am afraid that is not what we are doing. I am afraid there is an attempt here to move a fast one. I am afraid the masters of the universe who run this place, some on both sides of the aisle, don't want the American people to know what is in the bill. They don't trust them to be in on the negotiations. They want to do it and slide it through.

I remember last year we offered—someone offered a good amendment, I think it was the Isakson amendment, on a trigger, and one of the Senators said: Oh, we can't accept that amendment. Why not? We can't accept it because it would upset that delicate balance of negotiations with the parties who put this bill together. So I asked: Who were they? Who are these parties who put the bill together? Where did they meet? Did they have votes? Did people elect them to go in this caucus to write this piece of junk that was the bill last year? Who was that? Oh, they wouldn't talk about who actually wrote the bill. They wanted to ram it through, and nobody could amend it because it would upset their delicate compromise. Well, phooey on that. We need to do this in the light of day. We need to stand up and explain to our constituents and ask them to support a good bill, and we need to stand up and oppose a bill that is a bad bill. We are going to live with it, as we have lived for over 20 years now with 1986, that failed piece of legislation that had so much promise and people were so happy about when it passed, and it never worked.

There are several reasons we need to be cautious. You can put in a piece of legislation an authorization to add a bunch of Border Patrol officers or workplace enforcement rules, or you can put in an authorization to spend money to create a computer system that will actually work, and it can. We can create a system that will work, but authorizing doesn't mean anything. That doesn't mean anything. You have to come up with money, and the money comes up in the years to come. If this Congress isn't serious about what it is doing and we pass a bill that authorizes a bunch of provisions that could actually help and be worthwhile and we never come up with the money to do it, the system is going to collapse as badly as it is right now.

We need a national debate, a national consensus on a good piece of legislation. The President needs to be committed to leading instead of undermining the enforcement of laws. They are getting a little better in the White House now, but Presidents in the past have had no interest whatsoever in seeing immigration laws passed. If they did, they would have come to Congress and said: We need more border enforce-

ment, we need fencing, we need more Border Patrol, we need an end catch and release. They never came to Congress and said the law was not being enforced. American constituents talk to Members of Congress and the Members of the Senate and explain about the plain as day illegality that is going on, and the Congress is trying to make the system be enforced. My colleague, the Presiding Officer, is a former U.S. attorney. The President, the executive branch has the responsibility to enforce the law, not the Congress. What do we know about how to catch all these people. They ought to be asking us for the laws. They should be telling us what is needed. But no, no, because nobody, not any President since 1986, has ever taken his responsibility to enforce the laws of the United States seriously as they apply to immigration. So that is what we have.

I have points I will not go into tonight that detail the incredible flaws that existed in last year's bill.

Senator SPECTER offered a bill that I didn't favor, but it was better—he was chairman of the Judiciary Committee last year—it was better than the other two that arose. After he offered it in Judiciary Committee, we went on in a day or so, or two or three, and we had this deadline. Like Senator REID, Senator FRIST said: I have to have the bill out Monday. If you don't bring it out Monday, I am going to introduce another bill—a pretty good bill, actually, which was an enforcement-oriented bill. Also, the Judiciary Committee got in a flutter, and we ran around, and Senator KENNEDY offered the substitute—Kennedy-McCain. The Specter bill was gone, and an entirely new Kennedy-McCain bill was on the floor. Then the controversial AgJOBS portion of immigration that had been floating around here and had been blocked over the years was offered up as an amendment to Kennedy-McCain, and it was added with no debate. We voted this out and it was on the floor, and the next day we were debating this 600-page bill.

That is not the way to do business in the Senate. My chief counsel here studied this legislation, and we read the fine print, that 600 pages, and when we looked at it, we were shocked at the loopholes it contained. We identified—and I spoke here several hours on it—17 loopholes in that legislation. It began to lose steam. We found out just, for example—mind you, Senator REID, I understand from the New York Times and others, is talking about introducing the Judiciary Committee bill. This is what the Judiciary Committee bill would have done last year, the one that passed out of the Committee, the so-called McCain-Kennedy bill. Under current law, over the next 20 years, this Nation would issue 18.9 million green cards—quite a substantial number. Under the Kennedy-McCain bill passed out of committee last year—hold your hat—it would have been, at a minimum, 78 million over 20 years to

as many as 200 million. That is two-thirds of the current population of the United States of America. They tried to move that bill without amendments. I cannot recall the gymnastics they went through, but they were even denying Senators KYL and CORNYN amendments they wanted to have, and Senator REID wanted no amendments.

Finally, we began to have amendments. Senator BINGAMAN offered two amendments, eventually, as time went by. It was brought back the third time. They brought those numbers down from 78 million and 200 million to 53 million, almost 3 times the current rate of immigration.

So Senator REID, as I understand it, according to a news report, is talking about bringing up the Judiciary Committee bill. This is not the 53 million people being brought in here permanently with a green card—permanent residents—but we would go back to the 78 million to 200 million. How amazing is that?

So I am just flabbergasted by the way this matter is being treated. There is only one way to do it; that is, we stand up like real Senators and we write a bill and work out a bill, and we give the Members of the Senate the time to read it, time for the American people to understand what is in it, and see if it can be amended and made better, and make sure it will actually work, not just be a political show—not some political sham but a piece of legislation that would actually work, and then we would pass it. We would be responsible to our constituents for a “yes” or “no” vote because we do need to pass comprehensive reform. I said that many times last year. Of course, we need that.

The whole system is broken. Nothing about it works. Of course, we need to reform it from the ground up. But the legislation last year is no place to start. We don't need to be using some gimmick to get the bill up, with last year's language, and then substitute

new language that nobody has read and ram it through the Senate. The American people should not be happy with that.

Mr. President, I thank the Chair for his patience and those who listened to my remarks. I believe we can do something better. I support real and genuine reform of immigration in America. I will support legislation that provides a compassionate solution to the people who have been here for years and have been dutiful, law-abiding people except for their illegal presence. We can work through those things.

We need a future flow system, much more like Canada's, much more like New Zealand's. We need a temporary worker program that is really temporary. We need a workplace enforcement system that the average employer will have no problem in following. We need a biometric, identifying cards for immigrant workers so they cannot be illegally forged. That is all possible to do if we want to do it—unless the people who are driving this bill, the architects of this, just want to go through the motions of creating an immigration system that would work, unless that is their plan, to just go through the motions and pass a bill that has no chance of being successful, just like we did in 1986, and 8 or 10 years later, they can say: We are heartbroken; we thought it was going to work.

I think we can do it, and I think we ought to do it. I hope the majority leader will not bring up the last year's bills—any one of them—and that he will bring up the bill that was drafted through this compromise process because I think it at least has some possibility to be a bill we could support, unlike the one last year, and then we can study it and debate it. The American people could be engaged in it, and we ought to stand up and vote and do the right thing for America.

I yield the floor.

ADJOURNMENT UNTIL 10 A.M.  
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m. tomorrow.

Thereupon, the Senate, at 6:51 p.m., adjourned until Tuesday, May 8, 2007, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate May 7, 2007:

### DEPARTMENT OF COMMERCE

WILLIAM G. SUTTON, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE ALBERT A. FRINK, JR.

### FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION WITHIN AND INTO THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER:

JOHN E. PETERS, OF FLORIDA

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR:

WILLIAM A. BREKKE, OF SOUTH DAKOTA  
IRA E. KASOFF, OF CALIFORNIA

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR:

JOHN D. BREIDENSTINE, OF PENNSYLVANIA  
JANICE A. CORBETT, OF OHIO  
AMER M. KAYANI, OF CALIFORNIA  
MARGARET A. KESHISHIAN, OF CALIFORNIA  
ANDREW P. WYLEGALA, OF WASHINGTON

### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be brigadier general*

COL. CHARLES W. HOOPER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

#### *To be brigadier general*

COL. LOREE K. SUTTON, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF CHAPLAINS, UNITED STATES ARMY AND APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 3036:

#### *To be major general*

BRIG. GEN. DOUGLAS L. CARVER, 0000